

**STATE OF MICHIGAN**  
**DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS**  
**OFFICE OF FINANCIAL AND INSURANCE REGULATION**  
**Before the Commissioner of Financial and Insurance Regulation**

**In the matter of**

**XXXXXX**

**Petitioner**

**v**

**File No. 122663-001**

**Blue Cross Blue Shield of Michigan**  
**Respondent**

---

**Issued and entered**  
**this 31<sup>ST</sup> day of October 2011**  
**by R. Kevin Clinton**  
**Commissioner**

**ORDER**

**I. PROCEDURAL BACKGROUND**

On August 5, 2011, XXXXX (Petitioner) filed a request for external review with the Commissioner of Financial and Insurance Regulation under the Patient's Right to Independent Review Act (PRIRA), MCL 550.1901 *et seq.* The Commissioner reviewed the material submitted and accepted the request on August 12, 2011.

The Petitioner receives prescription drug benefits under a certificate of coverage issued by Blue Cross Blue Shield of Michigan (BCBSM) to LTBB of Odawa Indians, an underwritten group. The benefits are described in BCBSM's *Preferred RX Program Certificate and Rider PD-RX-CM Prescription Drug Cost Management*.

To analyze the medical issues presented, the Commissioner assigned the case to an independent medical review organization which provided its recommendation on September 19, 2011. A copy of the complete recommendation is being provided to the parties with this Order.

**II. FACTUAL BACKGROUND**

The Petitioner is 52 years-old and has a history of diabetic neuropathy. Her physician, Dr. XXXXX, requested authorization for the drug Lyrica to treat her condition. BCBSM denied coverage ruling that the Petitioner did not meet its criteria for coverage. The Petitioner appealed the denial through BCBSM's internal grievance process but BCBSM did not change its decision. BCBSM issued a final adverse determination dated June 15, 2011.

### **III. ISSUE**

Did BCBSM properly deny prior authorization for the Petitioner's use of Lyrica?

### **IV. ANALYSIS**

#### **Petitioner's Argument**

The Petitioner states her doctor prescribed Lyrica for treatment of her neuropathy and it has worked very well. She was told that she had to try and fail three antidepressants and Neurontin. Past attempts using Neurontin were unsuccessful. Other drugs such as Amitriptyline caused side effects, including loss of concentration.

In support of Petitioner's request for Lyrica, Dr. XXXXX's office submitted a list of the medications Petitioner has used in the past without success:

Other meds patient has tried and outcome:

- Tramadol 50 mg - patient currently taking (will take concurrently with Lyrica)
- Neurontin - trial pre-patient-unable to tolerate secondary to GI upset and fatigue
- Amitriptyline - 6/9/11 - 6/29/11-unable to tolerate – fatigue - nausea, difficulty concentrating, depression
- ASA, Ibuprofen, Naproxen, Celebrex, Toradol, Darvocet & Vicodin, Tramadol, Tylenol #3 - all pre-patient - resulted in intolerance or inadequate relief

Patient has been on Lyrica previously with good result. It is the prescribing practitioner's opinion that this is the most appropriate medication for patient and others would be inferior – in particular because patient is very sensitive to most other meds.

#### **BCBSM's Argument**

In its final adverse determination, BCBSM wrote that the Petitioner's rider includes cost management features for prescription drugs including mandatory preauthorization. The rider states (at page 4):

We will pay our approved amount for select prescription drugs obtained from a pharmacy or panel mail order provider if both of the following are met:

- The prescribing physician requests preauthorization and demonstrates that the select prescription drug meets BCBSM's criteria
- We approve the request

The final adverse determination also includes this statement:

Coverage of Lyrica® will be provided for treatment of diabetic neuropathic pain or post-herpetic neuralgia . . .

- If patient less than 65 years of age: After a 30-day trial of gabapentin AND a tricyclic antidepressant, such as amitriptyline, desipramine, or imipramine. . . .

[W]e have no documentation to support your trial and failure of a tricyclic antidepressant.

#### Commissioner's Review

The question of whether the drug Lyrica was medically necessary for treatment of the Petitioner's condition was presented to an independent review organization (IRO) for analysis as required by section 11(6) of the Patient's Right to Independent Review Act. The IRO reviewer is a physician who has been in active practice for more than 15 years and is board certified in neurology. This reviewer concluded that Lyrica is medically necessary for treatment of the Petitioner's condition. The IRO reviewer's report includes the following analysis:

[T]he member has failed multiple therapies for this condition, including Tramadol, Neurontin, Amitriptyline [*sic*], aspirin and Vicodin. . . . [T]he member has also tried Lyrica with a documented positive response. . . . [S]tandard of care would be to treat the member with Lyrica given her history and prior response to this medication. . . . [T]he literature supports the use of Lyrica for diabetic neuropathy. [Citations omitted.]

. . . Lyrica is medically necessary for treatment of the member's condition.

While the Commissioner is not required in all instances to accept the IRO's recommendation, it is afforded deference. In a decision to uphold or reverse an adverse determination, the Commissioner must cite "the principle reason or reasons why the Commissioner did not follow the assigned independent review organization's recommendation." MCL 550.1911(16)(b). The IRO reviewer's analysis is based on extensive expertise and professional judgment and the Commissioner can discern no reason why that judgment should be rejected in the present case.

#### **V. ORDER**

Blue Cross Blue Shield of Michigan's final adverse determination is reversed. BCBSM shall provide coverage for the Petitioner's Lyrica prescription within 60 days of the date of this Order and shall, within seven (7) days of providing coverage, furnish the Commissioner with proof it has implemented this Order.

To enforce this Order, the Petitioner may report any complaint regarding implementation to the Office of Financial and Insurance Regulation, Health Plans Division, toll free at (877) 999-6442.

Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than 60 days from the date of this Order in the circuit court for the county where the covered person resides or the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of Financial and Insurance Regulation, Health Plans Division, P.O. Box 30220, Lansing, MI 48909-7720.